

1
2 **E-Filed on: December 13, 2010**
3

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FREDERICK SANTACROCE, Esq.
Nevada Bar No. 5121
LAW OFFICES OF FREDERICK SANTACROCE, ESQ.
706 S. 8th St Las Vegas, Nevada 89101
Telephone: (702) 598-1666 Fax: (702) 385-1327
Attorney for Debtor

UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF NEVADA

In re:
5440 W SAHARA, LLC, a Nevada limited
liability company;

Case No.:
Chapter 11

Debtor.

VILLA BONITA PROPERTIES LLC,

NOTICE OF REMOVAL

Plaintiff,

vs.

ONECAP REALTY, a Nevada corporation;
5440 W. SAHARA LLC, a Nevada limited
liability company; ONECAP HOLDING
CORPORATION, a Nevada corporation;
VINCE HESSER, an individual; ROE
BUSINESS ENTITIES I through X; and
DOES XI through XX, inclusive,

Defendant(s)

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

5440 W SAHARA LLC, ONECAP HOLDING CORPORATION, ONECAP
REALTY, and VINCE HESSER by and through their counsel, FREDERICK SANTACROCE,
ESQ., of the law firm SANTACROCE LAW OFFICES, LTD hereby files this Notice of
Removal pursuant to 28 U.S.C. § 1452 and Fed. R. Bankr. P. 9027(a)(1) and (2) and
7001(10).

1 The Debtor is the principal defendant in an action now pending in the Eighth Judicial
2 District Court, in and for Clark County, Nevada, Case No. A-10-613629, Dept. XI (the "Civil
3 Action").

4 1. The Civil Action was commenced prior to the June 10, 2010 petition for Chapter 11
5 bankruptcy filed by Debtor.

6 2. An automatic stay went into effect as a result of the Chapter 11 Bankruptcy
7 proceeding filed on behalf of Debtor.

8 3. Generally speaking, the various allegations in the Civil Action as against the Debtor
9 include causes of action against the Debtor and/or its alleged alter egos, for Breach of Contract,
10 Unjust Enrichment, Fraud, Breach of the Covenant of Good Faith and Fair Dealing,
11 Constructive Civil Conspiracy, Alter Ego, Breach of Fiduciary Duty, Declaratory and
12 Injunctive Relief.

13 4. In the Civil Action Plaintiff alleges that EACH AND ALL OF the Defendants is/are
14 *alter egos* of the Debtor.

15 5. Such alter ego claims against non-petitioner parties or co-debtors are assets of the
16 bankruptcy estate.

17 6. The core of the Civil Action centers on Plaintiff's allegations that Debtor and its
18 alleged alter egos owe it money.

19 7. Such property and claims related thereto is now the property of the Bankruptcy Estate
20 due to the filing of the Bankruptcy Petition and the operation of 11 U.S.C. § 541 and
21 accordingly, all claims to adjudicate the existence or extent of any alter ego relationships must
22 now be decided by the Bankruptcy Court.

23 8. The United States Bankruptcy Court has jurisdiction over the Civil Action pursuant

1 to 28 U.S.C. § 1334 and 157 and, therefore, the Civil Action may be removed to the
2 Bankruptcy Court pursuant to 28 U.S.C. § 1452.
3

4 9. Upon removal, the claims for relief set forth in the Civil Actions are core proceedings
5 pursuant to 28 U.S.C. § 157(b)(2)(A), (B), (E), (H) and (O) and are "related to" the case filed
6 under Title 11 of the United States Code.
7

8 10. If the Bankruptcy Court determines these matters to be non-core proceedings, The
9 Removing Parties consent to entry of final orders or judgment by the bankruptcy judge.
10

11 Dated: December 13, 2010
12

13 FREDERICK SANTACROCE, ESQ.
14 /s/ Frederick Santacroce

15 FREDERICK SANTACROCE, Esq.
16 SANTACROCE LAW OFFICES LTD
17 706 S. 8th St Las Vegas, Nevada 89101
18 Telephone: (702) 598-1666 Fax: (702) 385-1327
19 Attorney for Debtor
20
21
22
23
24
25
26
27
28